

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

CASE NO. CR18-217RSM

Plaintiff

V.

ANTHONY PELAYO,

ORDER GRANTING DEFENDANT
PELAYO'S MOTION TO EXCLUDE
EVIDENCE OF RELIGIOUS BELIEFS

Defendant.

This matter comes before the Court on Defendant Pelayo's Motion to Exclude Evidence of Religious Beliefs and Devotions. Dkt. #422. The Government has filed an opposition brief. Dkt. #535. No reply brief in support of the Motion was filed. No party has requested oral argument.

Mr. Pelayo moves for an order excluding evidence and testimony concerning his religious beliefs or devotions, specifically that a statue of Saint Jesus Malverde was found in his home. Dkt. #422 at 1–2. According to Mr. Pelayo, Jesus Malverde is a Mexican folk saint who “turned to banditry after his parents both died tragically,” and who “stole from the rich and gave to the poor.” *Id.* at 2. However, Mr. Pelayo believes that Malverde “is often depicted as simply the patron saint of drug traffickers,” and that this will be how it is introduced at trial. *Id.* at 3. Mr. Pelayo maintains that introducing this evidence would violate the First Amendment and FRE

1 404(a) if admitted solely to attack his character. *Id.* at 3–4. Mr. Pelayo argues “the fact that
2 some drug traffickers also have similar religious icons in their homes is of limited probative
3 value.” *Id.* at 5.

4 The Government states it has “no objection” to an order preventing it from “admitting
5 evidence relating to the Jesus Malverde statue found in Pelayo’s home.... Unless Pelayo (or
6 Pelayo’s counsel) injects the issue of his religious beliefs or good character into the trial.” Dkt.
7 #535 at 1–2.

8 The Court finds that evidence or testimony related to Mr. Pelayo’s Jesus Malverde statue
9 is properly excluded under FRE 404(a).

10 Having reviewed the briefing, along with the remainder of the record, the Court hereby
11 finds and ORDERS that Defendant Pelayo’s Motion to Exclude Evidence of Religious Beliefs
12 and Devotions, Dkt. #422, is GRANTED. No evidence, testimony or arguments concerning
13 Defendant Pelayo’s Jesus Malverde statue shall be admitted at trial.

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16 DATED this 7th day of July, 2021.

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21 RICARDO S. MARTINEZ
22 CHIEF UNITED STATES DISTRICT JUDGE
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